



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 14, 2019

Mr. Albert DiMarco
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2019-22566

Dear Mr. DiMarco:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 780322 (PIR# 19-2299).

The Texas Department of Public Safety (the "department") received a request for information pertaining to a specified organization or a specified activity created during a stated time period. You state the department has released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information made confidential by other statutes, such as section 418.177 of the Government Code, which was added to chapter 418 of the Government Code as part of the Texas Homeland Security Act (the "HSA"). Section 418.177 provides that information is confidential if it:

(1) is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, or investigating an act of terrorism or related criminal activity; and

(2) relates to an assessment by or for a governmental entity, or an assessment that is maintained by a governmental entity, of the risk or vulnerability of persons or property, including critical infrastructure, to an act of terrorism or related criminal activity.

Id. § 418.177. The fact that information may relate to a governmental body's security measures does not make the information *per se* confidential under the HSA. *See* Open Records Decision No. 649 (1996). Furthermore, the mere recitation by a governmental body of a statute's key terms is not sufficient to demonstrate the applicability of a claimed provision. As with any exception to disclosure, a governmental body asserting one of the confidentiality provisions of the HSA must adequately explain how the responsive records fall within the scope of the claimed provision. *See id.* § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

You explain the submitted information consists of intelligence reports that "detail ongoing operations by the [d]epartment and other law enforcement agencies to detect, prevent, and respond to terroristic threats and other criminal activities." You inform us the submitted information is "used to assess ongoing and future risks to person and property[.]" and state release of this information "would provide specific information that would hamper [the department's] ability currently and in the future in regard to public safety threats and criminal organization groups and individuals." You further state release of the information at issue "would provide wrong-doers, computer-based syndicates, anarchists, terrorists, and other criminals with invaluable information concerning the [department's] law enforcement efforts[.]" Based on these representations and our review, we find the submitted information was collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, or investigating an act of terrorism or related criminal activity and relates to an assessment of the risk or vulnerability of persons or property to an act of terrorism or related criminal activity. *See id.* § 418.177. Accordingly, the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.177 of the Government Code.¹


This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open->

¹ As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

government/members-public/what-expect-after-ruling-issued or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Blake Brennan
Assistant Attorney General
Open Records Division

BBX/gw

Ref: ID# 780322

Enc. Submitted documents

c: Requestor
(w/o enclosures)

